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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,857	10/25/2001	Steven Hilles Taylor	9D-HR-19764	9984
23465	7590	07/06/2006	EXAMINER	
JOHN S. BEULICK C/O ARMSTRONG TEASDALE, LLP ONE METROPOLITAN SQUARE SUITE 2600 ST LOUIS, MO 63102-2740			HANSEN, JAMES ORVILLE	
			ART UNIT	PAPER NUMBER
			3637	
DATE MAILED: 07/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/682,857	Applicant(s) TAYLOR ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,9,11-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,9,11-13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.
2. Claims 1-6, 8, 9, 11-13 & 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As presently amended, independent Claims 1, 6 & 11 are deemed misdescriptive in view of the supporting specification and in view of the embodiment depicted in figures 1-5. The claims [note claim 1 as an example] recite a bottom mullion {viewed as 112} having a pair of channels, and an engagement portion {viewed as 220} proximate one of the channels. The engagement portion extending obliquely from a portion of the first channel. The claims further recite [note claim 1 again] a casing {viewed as 156} having a first retaining tongue {viewed as 240} that includes a portion received within one of the channels. As such, it is not clear how this arrangement could physically exist since 1) the engagement portion does not appear to extend obliquely from a channel and 2) the tongue does not extend into one of the channels. After a comprehensive review of the disclosure, it appears that the “mullion” includes two channels and an engagement portion, the “casing” includes a fastening projection having a distal tongue, the “liner” includes a flange that is inserted within one of the channels, the “front rail” includes an upper end that is inserted within the other channel, and the engagement portion is inserted within the fastening projection allowing the tongue to engage a surface of the engagement portion. It is further noted in claim 15 that the phrase “said bottom panel” lacks a proper antecedent basis. Consequently, the remaining claims are

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rejected and likewise unclear since they are dependent upon an indefinite claim.

Appropriate correction is required depending upon applicant's intent.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 8, 9, 11-13 & 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kordes [U.S. Patent No. 4,134,626]. As to claim 1, Kordes (figures 1-7) teaches of a refrigeration appliance cabinet comprising: a “bottom” mullion (30 e.g., - it is noted that no special significance is being attributed to the adjective “bottom” with respect to the claimed element “mullion” since the descriptor does not further define the element structurally) comprising a pair of adjacent channels (depicted in fig. 4 – top channel opening to the right while the bottom channel opens to the left) and an engagement portion (lower flat portion of the bottom mullion as depicted in fig. 4) proximate a base portion of a first channel of the pair of channels [note Exhibit I], the engagement portion extending obliquely from a first retainer portion of the first channel and transitioning into a second retainer portion of the first channel [Exhibit I] as best understood by the examiner {note previous 112(2) rejections}; and a casing (12) comprising a retaining tongue (end section of element 18) having an end portion received within the first channel and formed in shape substantially complementary to a shape of the engagement portion [Exhibit I] as best understood by the examiner. As to claim 2, the cabinet further comprises a bottom rail ((36) – it is noted that no structural or functional characteristics have been accorded to this limitation and

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therefore the limitation has been interpreted in a reasonably broad manner) that is received in one of the channels of the mullion (bottom channel – fig. 5). As to claim 3, the cabinet further comprises at least one inner liner (24), and foam insulation (28) between the liner and the casing (fig. 6). As to claim 4, the liner being received within one of the channels of the mullion (top channel – fig. 5). As to claim 5, the casing including a bottom panel (16 for example) and the bottom panel comprises a fastening projection (middle section of 18 – as best understood in view of pending 112(2) rejections), wherein the bottom mullion comprises an extended flat portion (at the end of lower flat portion of the engagement portion as noted above in claim 1) for “press fit” engagement with the fastening projection (fig. 5) so far as broadly claimed and indefinite.

As to claim 6, Kordes (figures 1-7) teaches of a refrigeration appliance cabinet comprising: a bottom mullion (30 e.g.,) comprising a pair of adjacent channels (depicted in fig. 4 as noted above) and an engagement portion (Exhibit I), the engagement portion extending obliquely from a first retainer portion of the first channel and transitioning into a second retainer portion of the first channel [Exhibit I] as best understood by the examiner {note previous 112(2) rejections}; and a casing (12) having a fastening projection (end section of element 18) having an end portion received within the first channel and formed in shape substantially complementary to a shape of the engagement portion [Exhibit I] as best understood by the examiner. As to claim 8, the mullion engagement portion comprises a flat engagement surface (top facing surface of the flat portion) and the projection engages the engagement surface (note fig. 5). As to claim 9, the fastening projection comprises a tongue (viewed as element 36), so far as broadly claimed, that is separated from the engagement surface

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as readily apparent to the examiner and as best understood by the examiner {112(2) rejections}.

As to claim 11, Kordes teaches of a casing (12), an inner liner (24) within the casing and comprising at least one compartment [interior compartment of the refrigerator]; and a mullion (30), the mullion having a pair of adjacent channels (as noted above), the mullion configured to receiving a portion of the inner liner (top channel – fig. 5) with one of the channels, and the casing configured to receive a portion of the mullion with “press fit” engagement (fig. 5) so far as broadly claimed, an engagement portion (lower flat portion of the bottom mullion as depicted in fig. 4) proximate a base portion of a first channel of the pair of channels [note Exhibit I], the engagement portion extending obliquely from a first retainer portion of a first channel of the pair of channels and transitioning into a second retainer portion of the first channel [Exhibit I] as best understood by the examiner {note previous 112(2) rejections}, and the casing comprising a tongue (18) having an end portion received within the first channel and formed in a shape substantially complementary to a shape of the engagement portion [as best understood as previously noted above]. As to claim 12, the cabinet further comprises a lower rail (36 – see disclosure above) with the mullion configured to receive the lower rail (fig. 5). As to claim 13, the mullion comprising opposing side surfaces (any of the “side surfaces” will suffice for examination purposes – see fig. 5, such as the side surfaces defining the ends of each channel), with one channel receiving the lower rail and the other channel receiving the inner liner (as noted above). As to claim 15, the “bottom panel” (viewed as (14) for example so far as indefinite) comprises a “clip” (16), with the tongue (18) extending from the clip as best understood by the examiner.

Response to Arguments

5. Applicant's arguments filed April 24, 2006 have been fully considered but they are not persuasive. As presently put forth, the examiner deems the prior art rejections to adequately address all of the claimed limitations structurally and functionally as best understood in view of the indefiniteness associated with the claims. Accordingly, the examiner is unable to properly respond to applicant's traversals since, in the examiner's opinion, the arguments are established on a flawed premise of the claims currently amended. The examiner has relied upon the disclosure of the application, i.e., terminology utilized in the specification corresponding to elements in the drawings, as originally filed to support a basis for the interpretation of the claimed language as put forth in the cited rejections.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

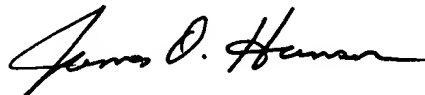
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
June 29, 2006

Exhibit "I"

